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6 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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RAMA DIOP,
Plaintiff,
v.
COUNTY OF MARIN, ET AL.
Defendants.

No. C 12-06332 JSW

**ORDER DENYING AS MOOT
MOTION TO DISMISS**

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15 On October 1, 2013, the Court issued an Order directing Plaintiff to file a *final version*
16 of her Second Amended Complaint by no later than October 31, 2013. Plaintiff complied with
17 that Order and filed her Second Amended Complaint on October 31, 2013. However, before the
18 Complaint could be docketed, on November 4, 2013, the City of Mill Valley, the Mill Valley
19 Police Department, Mill Valley Police Officers Michael Lance, Lance C. Milde, and Scott
20 Brook, and Mill Valley Sgt. Wrapps filed a motion to dismiss, pursuant to Federal Rule of Civil
21 Procedure 41, for failure to comply with that Order. Because the only basis for Defendants'
22 motion is the failure to comply with the Court's deadline, and because Plaintiff did comply with
23 the deadline, the Court DENIES the motion as moot, and it VACATES the hearing scheduled
24 for January 10, 2013.

25 Plaintiff is proceeding *in forma pauperis*, and under 28 U.S.C. Section 1915(e)(2)(B),
26 the Court is required to dismiss an action that is frivolous or fails to state a claim. The Court
27 will consider the Second Amended Complaint to determine whether Plaintiff has cured the
28 deficiencies previously identified by Judge Hamilton, whether the Court must dismiss under

1 Section 1915(e)(2)(B), or whether the Court should order service on the Defendants.

2 **IT IS SO ORDERED.**

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4 Dated: November 6, 2013


5 JEFFREY S. WHITE
6 UNITED STATES DISTRICT JUDGE
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

RAMA DIOP.

Case Number: CV12-06332 JSW

Plaintiff,

CERTIFICATE OF SERVICE

V.

COUNTY OF MARINE et al.

Defendant.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 6, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Rama Diop
527 Hillside Avenue
Mill Valley, CA 94941

Dated: November 6, 2013

Jennifer Ottolini

Richard W. Wiekling, Clerk
By: Jennifer Ottolini, Deputy Clerk